

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA

Larry James Tyler,)	Civil Action No.: 9:12-546-MGL
)	
Plaintiff,)	
)	
vs.)	<u>OPINION AND ORDER</u>
)	
Mitch Stanley and Captain Coe,)	
)	
Defendant.)	
)	

Plaintiff, Larry James Tyler, an inmate in the South Carolina Department of Corrections, proceeding *pro se* brings this action pursuant to 42 U.S.C. § 1983 alleging multiple causes of action regarding the conditions of his confinement while housed at the Darlington Detention Center. (ECF No. 1-1). Defendants deny Plaintiff's allegations. (ECF No. 17). In accordance with 28 U.S.C. § 636(b)(1) and Local Rule 73.02 D.S.C., this matter was referred to United States Bristow Marchant for pretrial handling.

On August 21, 2012, Magistrate Judge Bristow Marchant advised the parties, in an order dated August 21, 2012, that the discovery deadlines in this case had expired and that the parties had twenty (20) days from the entry date of the Courts order to file dispositive motions. (ECF No. 23). On October 18, 2012, Defendants filed a Motion to Dismiss (ECF No. 27) pursuant to Federal Rule of Civil Procedure 12(b)(6). Defendants' motion was denied as untimely. (ECF No. 28). The Magistrate Judge, in a Text Order dated October 23, 2012, extended the scheduling deadline for filing Summary Judgment motions for fifteen (15) days from the entry date of the Order. *Id.* The Magistrate Judge advised the parties that in the event neither parties filed a Motion for Summary Judgment, the matter would be scheduled for trial. On March 15, 2013, this Court issued a Text Order (ECF No. 33) advising the parties that the discovery deadlines had passed in this case and that

the deadline for filing motions for summary judgment was extended for fifteen (15) days from the entry date of its Order. The parties were advised that in the event neither party filed a Motion for Summary Judgment, the matter would be scheduled for trial. Neither party filed a motion for summary judgment.

Generally, there is no right to have counsel appointed in cases brought pursuant to § 1983. *Hardwick v. Ault*, 517 F.2d 295 (5th Cir. 1975). However, the Court has the power to exercise discretion in appointing counsel for an indigent in a civil action, 28 U.S.C. § 1915(d); *Smith v. Blackledge*, 451 F.2d 12-1 (4th Cir. 1971). Thus, the Court hereby appoints Michael Cashman and Keith Munson of the Womble Carlyle Law Firm in Greenville, South Carolina, as *pro bono* counsel to assist Plaintiff in this case and represent him at the trial of this case. Mr. Michael Cashman and Mr. Keith Munson are experienced and knowledgeable in these matters. Attorney Cashman and Attorney Munson's duties are limited to consulting with Plaintiff and his witnesses in an effort to prepare for trial, subpoenaing the necessary witnesses and documents to have them available at trial, and participating in the trial/settlement negotiations. Attorney Cashman and Attorney Munson are ordered to contact their client, who is currently incarcerated at the Evans Correctional Institution in Bennettsville, South Carolina, of the South Carolina Department of Corrections, as soon as possible. The Clerk of Court's Office is directed to produce any and all documents on file with their office to Attorney Cashman and Attorney Munson. Counsel for the Defendants and appointed counsel for Plaintiff are instructed to confer regarding the submission of a joint consent scheduling order to the court. In conferring about the joint consent scheduling order, the parties should keep in mind that the deadline for dispositive motions has expired. The parties are directed to participate in mediation pursuant to Local Civil Rules 16.04-16.12 before a mediator of their choosing or a Magistrate Judge

appointed by the Court and should further discuss the timing of mediation which should be indicated in the scheduling order submitted to this Court. This case is subject to being set for jury selection and/or trial on or after January 1, 2014.

IT IS SO ORDERED.

s/Mary G. Lewis
United States District Judge

Spartanburg, South Carolina

September 18, 2013